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OFFICE OF PETITIONS

In re Application of
Werner Scheler et a
Application No. 10/020,861
Filed: December 14, 2001
Attorney Docket No. 2267.547US03

DECISION GRANTING
PETITION

This is a decision on the petition filed March 1, 2002 and supplemented on September 21, 2005, requesting that the above-identified application be accorded a filing date of December 14, 2001, rather than either December 13, 2001 or the July 16, 2002 filing date presently accorded this application. The petition is properly treated as a petition under 37 CFR 1.10(d).

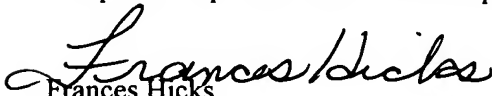
Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on December 14, 2001 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EL671552706US bears a handwritten "date-in" of December 13, 2001, it also includes a USPS receipt date stamp of December 14, 2001. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is December 14, 2001. Petitioner has additionally supplied a sales receipt to further evidence the fact that the package in question was entrusted to the USPS on December 14, 2001. The above-noted Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on December 14, 2001. Accordingly, this application is entitled to a filing date of December 14, 2001, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to December 14, 2001 and for issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3218. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.


Frances Hicks
Petitions Examiner
Office of Petitions